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BOOK REVIEWS.

A TREATISE ON THE LAW OF INSURANCE, including Fire, Life, Accident, Guarantee and other Non-marine Risks. By ARTHUR BIDDLE, M.A. Two volumes. Philadelphia : Kay & Brother, 1893.

BIDDLE on Insurance is a welcome addition to the literature of this vast and undefined branch of law. There is no other satisfactory book which aims to cover all or even a considerable portion of the field. PORTER on Insurance is defective in arrangement and the author occasionally allows himself to be carried away by his "hobbies," so that his work cannot be regarded as altogether reliable. RICHARDS on Insurance, while admirable in its way, is written in *usum tyronum* and makes no claim to be considered as an exhaustive treatise upon insurance law. Other works exist but they are, in general, either special treatises upon particular kinds of insurance or they are works which have now become antiquated and have been swept away in the rapid current of modern judicial decisions.

Mr. BIDDLE's work "is an attempt to develop the principles applicable to all branches of non-marine insurance, by regarding the contract of insurance as the fundamental idea of the work, and then by proceeding to consider its structure, the essential elements in its formation, the rights that accrue to the parties to it after it is formed, the capacity to avoid it, its performance, the consequences dependent upon its breach, and the measure of damage." In pursuance of the plan thus outlined, the work is divided into six books. Book I deals with the Formation of the Contract. In this book, Chapter I deals with the Form of the Contract; Chapter II, with the Parties; Chapter III, with Mutual Assent; Chapter IV, with Insurable Interest; and Chapter V, with the Consideration or Premium. In Book II, the author discusses the Rights of the Parties in the Contract before the Contingency Insured against occurs. This book is divided into two parts—Part I deals with the Rights of the Insured, and Part II with the Rights of the Insurer. In the former part is set forth the law respecting Alienation or Diminution of the Insured's Interest, Title to the Policy in Respect of Property, on Sale, Lease, etc.; Assignment, Cancellation and Renewal, and the Right to Receive a Paid-up Policy and Dividends. In the latter part, the author treats of Cancellation, Re-Insurance, Novation and Amalgamation. The Avoidance of the Contract forms the subject of Book III, wherein are considered Fraud, Illegality, Mistake and Failure of Consideration; while Book IV is occupied with a discussion of the Performance of the Contract. This book is divided into three parts, the first of which concerns the Duties of the Insured. The chapter headings in this part are as follows: Conditions, Warranties and Representations; Description of the Insurance Intended; Vacancy and Disuse; Title and Incumbrances; Overvaluation at the Inception of the Contract, and Agreement to take Inventories; Increase of Risk in Insurance in Respect of Property; Hazardous

Risks in Insurance in Respect of Life, and Accident to the Person ; Additional Insurance ; Premiums and Assessments ; Duty of the Insured at a Fire ; and Notice and Proof of Loss, Death, etc. Part II is concerned with the Duties of the Insurer—Adjustment, Payment and Re-Instating. Part III treats of Estoppel and Waiver, the three chapters being devoted respectively to Preliminary Remarks, Estoppel and Waiver of the Insurer and Estoppel and Waiver of the Insured. Book V, on the Breach of the Contract is also divided into three parts, the Remedies and Defences of the Insured, Remedies and Defences of the Insurer and Remedies and Defences of Third Parties. Book VI treats of the Measure of Damage.

It is obvious that this classification is the result of much thought and careful analysis. It is in many respects absolutely original and an examination of it gives the reader an idea of the broad scope of Mr. BIDDLE'S work. The treatment of all the subjects is full and the two volumes together contain some 1400 pages, while the table of cases cited (printed in double columns) covers about ninety pages.

Several questions will suggest themselves to the critical reader who examines the forgoing analysis with care. He will ask himself whether it would not have been more logical to postpone a discussion of the Avoidance of the Contract (the subject-matter of Book III) until after treating of the Performance of the Contract. He will also question the propriety of treating the important subject of the Duties of the Insured in respect of Conditions, Warranties and Representations as a subdivision of Book IV, on the Performance of the Contract. It is true that in a certain sense the insured, in performing conditions, in complying with warranties and in making good representations, is performing his side of the contract ; but it is submitted that, according to the method of treatment adopted by the author, these topics should be classified as Preliminaries and Inducements to the Contract—since many of the representations and warranties are (like some warranties for title) broken, if at all, as soon as made, and since the distinguishing characteristic of all of them is that they prescribe the basis upon which the parties forthwith proceed to contract.

Again, the reader may at first feel inclined to criticise Mr. BIDDLE for having included in his work a discussion of many topics which are in no sense peculiar to insurance law. It may be said with some justice that a discussion of Equity Jurisprudence in relation to Fraud and Mistake and in relation to Waiver and Estoppel is out of place in such a work as this, since the principles discussed are applicable to all contracts, not merely to contracts of insurance. So, also, of the chapter on the Mutual Assent, in the course of which the author discusses the subject of Contracts by Correspondence, and the mooted questions raised by *Dunlop v. Higgins*, *Adams v. Lindsell* and *McCulloch v. Eagle Insurance Co.* To such a criticism the author would doubtless reply that in order to make his work as practical and as useful as possible he had, after deliberation, decided to include within it a discussion of all legal principles which are applicable to contracts of insurance, irrespective of whether or not the principles discussed are of wider application ; and that he had deliberately discarded that view of the ideal treatise on the law of insur-

ance which would lead him to omit much of the matter which his volumes now contain. Such considerations have much force and it is natural that they should have a controlling influence with an author who is not prepared wholly to disregard the popular demand for a book which shall combine in itself the characteristic features of Monograph, Text-book and Digest.

The book is written in a style that is admirably clear. The author has evidently mastered his subject long before he began to put his work into its final form and the result is that the reader is not troubled and perplexed by the constant transition from one principle to another which constitutes so disagreeable a feature in the ordinary text-book. The author has not adopted the historical method in the treatment of his subject, that is to say, he does not approach the consideration of a given doctrine by tracing the development of it through the leading cases examined in chronological order. One of the most admirable features of his work, however, is the consistent manner in which he constantly recurs to the state of the law as it stood before the Insurance Statutes of 19 George II and 14 George III, in order properly to determine what was the effect of those Statutes. It is in this connection as much as in any other, that one is able to perceive the superiority of his method of treatment as compared with that adopted by Mr. PORTER.

Mr. BIDDLE, in the discussion of a given topic, generally states the general principles which are applicable to the subject in hand and then examines the decisions of particular cases either in the order of their importance or in some order other than the chronological. Occasionally, however, he allows himself to begin a dissertation with the statement of some particular decision which has no claim to so prominent a position. For example, Chapter II of Book IV, on "Payment and Re-Instating by the Insurer," begins with this paragraph:—"1031, An Agreement by the insurer to pay the policy money in gold coin must be complied with as it is a contract to pay a special commodity." This paragraph stands by itself and is unconnected in thought with the paragraph which immediately follows. Such instances as this are, however, rare and the work, as a rule, is remarkable for clearness and smoothness of treatment as well as for the manner in which the author has preserved the perspective of his work in subordinating the discussion of particular cases to the statement of general principles.

The book is admirably printed and presents an attractive appearance. The reviewer has observed but few typographical errors, and such as there are have been for the most part corrected in the table of *errata*. In the second edition of the work the publisher will doubtless see to it that the necessary correction is made in printing the running head line—"Warranties and Representations"—in Book IV, Chapter I. For three forms (pp. 481 to 529) the head line reads "*Warrants* and Representations."

Upon the whole, the thanks of the profession—and indeed of all persons whose business brings them face to face with the problems of insurance law—are due to Mr. BIDDLE for putting within our reach in so agreeable a form the results of wide reading, careful research and clear thought.

G. W. P.